

**COMMISSION AGENDA:**

1.6.09 #29c

TO: The Honorable Chairman and Members of the  
Board of County Commissioners

FROM: James L. Bennett, County Attorney *JLB*

SUBJECT: Authority for the County Attorney to Defend the Case of  
Jonathan Kaminski and Julie Kaminski, His Wife v. City of  
St. Petersburg, Florida and Pinellas County, Florida  
Circuit Civil Case No. 08-017513-CI-019

DATE: January 6, 2009

**RECOMMENDATION:** I RECOMMEND THAT THE BOARD OF COUNTY  
COMMISSIONERS AUTHORIZE THE COUNTY ATTORNEY'S OFFICE TO DEFEND THE  
ABOVE-STYLED CASE.

**DISCUSSION:** This accident occurred when a dislodged manhole cover on a County  
maintained road was struck by a motor vehicle operated by the Plaintiff. While significant  
damage was done to the undercarriage of his vehicle, it is unclear if the Plaintiff was injured, and  
to what extent. Nevertheless, he sues asserting a complete inability to work as damages.  
Plaintiff's work history is unclear, although he possesses a commercial driver's license. Current  
evidence indicates the Plaintiff started a new job as a machine operator the day before this  
accident and worked that position for a month before voluntarily quitting.

At issue is the question of whether this accident caused any bonafide injury, and what those  
damages/injuries happen to be.

Julie Kaminski sues for loss of consortium.

JLB:TES

Attachment

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WC

APS # 55A18<sup>8K</sup>  
DATE: 11/19/08  
TIME: 1:38pm

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA  
CIRCUIT CIVIL

Jonathan Kaminski and  
Julie Kaminski, His Wife,

Plaintiffs,

vs.

Case No: 08-17513CJ19

City of St. Petersburg, Florida and  
Pinellas County, Florida

Defendants.

**RECEIVED**

NOV 19 2008

TES

SUMMONS

COUNTY ATTORNEY

THE STATE OF FLORIDA  
TO EACH SHERIFF OF THE STATE

YOU ARE COMMANDED to serve this summons and a copy of the Complaint, Interrogatories and Request to Produce on the Defendant:

Pinellas County, Florida  
c/o Pinellas County Board of County Commissioners  
1100 Cleveland St., Suite 1500  
Clearwater, Florida

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney, whose name and address is

Rolando G. Guerra, Jr.  
John Bales Attorneys  
9700 Dr. Martin Luther King, Jr. St., Suite 400  
St. Petersburg, FL 33702  
Telephone: (727) 823-9100

within 20 days after service of this summons upon that defendant, exclusive of the day of service, and to file the original of the written defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition. In addition, each defendant is required to provide written responses to the interrogatories and request for production within 45 days after service of this summons upon that defendant, exclusive of the day of service, and to file written responses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter.

KEN BURKE, Clerk Circuit Court

DATED on NOV 17 2008, 2008.

As Clerk of the Court  
By: [Signature]  
Deputy Clerk

## **PERSONAL SERVICE ON AN INDIVIDUAL**

### **IMPORTANT**

A lawsuit has been filed against you. You have twenty (20) calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning for the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a carbon copy or photocopy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

### **IMPORTANTE**

Usted ha sido demandado legalmente. Tiene veinte (20) dias, contados a partir del receibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes, interesadas en dicho caso. Si usted no contesta la demada a tiempo, podiese perder el case y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la quia telefonica. Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la personal demoninada abajo como "Plaintiff/Plaintiff's Attorney." (Demandate o Abogado del Demandante).

### **IMPORTANT**

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une response ecrite a law plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous estes oblige de deposer votre resoibse ecrutem avec mention du numero de dossier ci-dessus et du nom des pasrties nommes ici, si vous souhaitez aue le Tribunal entende votre cause Si vous ne deposez pas votre response ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'sutres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez tlephoner a un service de reference d'avocats ou a un bureau d'assistance juridque (figurant a l'annuaire de telephones). Si vous choisissez de deposer vos-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.)

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA  
CIRCUIT CIVIL

Jonathan Kaminski and  
Julie Kaminski, His Wife,

Plaintiffs,

Case No: 08 - 17513 CI - 19

vs.

City of St. Petersburg, Florida and  
Pinellas County, Florida,

Defendants.

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COMPLAINT  
(GENERAL ALLEGATIONS)

Plaintiffs, Jonathan Kaminski and Julie Kaminski, His Wife, file this action against Defendants, City of St. Petersburg, Florida and Pinellas County, Florida, and state as follows:

1. This is an action for damages that exceeds Fifteen Thousand and No/100 Dollars (\$15,000.00).
2. On or about May 22, 2007, Defendant, City of St. Petersburg, Florida, owned or maintained a man hole cover located on 38<sup>th</sup> Avenue North, at or near the intersection with Tifton Street North in St. Petersburg, Pinellas County, Florida.
3. On or about May 22, 2007, Defendant, Pinellas County, Florida, owned or maintained a man hole cover located on 38<sup>th</sup> Avenue North, at or near the intersection with Tifton Street North in St. Petersburg, Pinellas County, Florida.
4. All conditions precedent to the bringing of this action have been met, in that the Plaintiffs, pursuant to Florida Statutes 768.28, have notified Defendants, City of St. Petersburg, Florida and Pinellas County, Florida, agencies of the State of Florida by certified mail and the

State of Florida, Department of Financial Services, of this claim and over six (6) months have elapsed since the Defendant was notified of this claim.

5. The City of St. Petersburg, Florida and Pinellas County, Florida have a duty to maintain the roads within their municipalities. On about May 22, 2007, they breached that duty by failing to maintain a manhole cover at the above intersection.

6. At the above time and place, Plaintiff, Jonathan Kaminski, was driving westbound on 38<sup>th</sup> Avenue North in St. Petersburg, Florida, behind other two other vehicles.

7. As a result of the failure of the City of St. Petersburg, Florida and Pinellas County, Florida to properly maintain the road, a vehicle struck a manhole cover causing debris over the roadway. As a result of this sudden and unexpected condition, Jonathan Kaminski struck the debris and the manhole cover.

#### COUNT I – CLAIM OF JONATHAN KAMINSKI

8. Plaintiff, Jonathan Kaminski, re-alleges and re-incorporates paragraphs One (1) through Seven (7) above as if fully stated herein.

9. As a result of the above crash, Plaintiff, Jonathan Kaminski, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future. Plaintiff's automobile was damaged and he lost the use of it during the period required for its repair or replacement.

WHEREFORE, Plaintiff, Jonathan Kaminski, demands judgment for costs, attorneys' fees, and damages against Defendants, City of St. Petersburg, Florida and Pinellas County, Florida, and demands a trial by jury on all issues so triable.

COUNT II – CLAIM OF JULIE KAMINSKI

10. Julie Kaminski re-alleges and re-incorporates paragraphs One (1) through Seven (7) above as if fully stated herein.

11. Julie Kaminski is the lawful wife of Jonathan Kaminski.

12. As a direct and proximate result of the injuries to Plaintiff, Jonathan Kaminski, Plaintiff, Julie Kaminski, has in the past, and will in the future, suffer the loss of his services, companionship, and consortium; and that she has in the past, and will in the future, incur great expenses to doctors, hospitals, for medication and similar items.

WHEREFORE, Plaintiffs, City of St. Petersburg, Florida and Pinellas County, Florida, and demands a trial by jury on all issues so triable.

Dated Nov 12, 2008.

JOHN BALES ATTORNEYS

  
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Florida Bar No: 602401  
A Bales Professional Association  
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Attorney for Plaintiffs